



To the Honorable Council  
City of Norfolk, Virginia

6/9/2015

From: David Ricks, Director of Public Works

**Subject:** Right of Entry Agreement permitting the City of Chesapeake to go upon and utilize a City of Norfolk Easement located in the right of way of Deepwater Drive in the City of Chesapeake.

Reviewed:

Ronald H. Williams, Jr., Deputy City Manager

**Ward/Superward:** N/A

Approved:

Marcus D. Jones, City Manager

**Item Number:**

**R-9**

I. **Recommendation:** Adopt Ordinance

II. **Applicant:** City of Chesapeake  
306 Cedar Road  
Chesapeake, Virginia 23322

III. **Description:**

This agenda item is an ordinance approving a Right of Entry Agreement permitting the City of Chesapeake to go upon and utilize a City of Norfolk Easement located in the right of way of Deepwater Drive in the City of Chesapeake.

IV. **Analysis:**

The City of Norfolk has an easement over Deepwater Drive right of way for utilities and ingress and egress in the City of Chesapeake. This right of entry agreement will allow the City of Chesapeake to enter the easement for the purposes of posting no dumping signs, unlocking a gate, removing illegal fill, reestablishing and monitoring vegetation, and exercising public ingress and egress.

V. **Financial Impact**

The City of Chesapeake is self-insured, therefore, there should be no financial risk to the City of Norfolk. The City of Norfolk will not charge a fee for this right of entry.

**VI. Environmental:**

There is no negative environmental impact associated with this action.

**VII. Community Outreach/Notification:**

Public notification for this agenda item was conducted through the City of Norfolk's agenda notification process.

**VIII. Board/Commission Action:**

The Department of Public Works and the City Attorney's Office have reviewed this request for right of entry and offer no objections. Review and approval by the Norfolk Design Review Committee and the City Planning Commission is not required.

**IX. Coordination/Outreach:**

This letter has been coordinated with Department of Public Works and the City Attorney's Office.

Supporting Material from the Department of Public Works:

- Ordinance
- Exhibit A

Form and Correctness Approved:

By Nathan Saman  
Office of the City Attorney

Contents Approved:

By AS  
DEPT. Public Works

NORFOLK, VIRGINIA

## ORDINANCE No.

AN ORDINANCE APPROVING A RIGHT OF ENTRY AGREEMENT PERMITTING THE CITY OF CHESAPEAKE TO GO UPON AND UTILIZE A CITY OF NORFOLK EASEMENT LOCATED IN THE RIGHT OF WAY OF DEEPWATER DRIVE IN THE CITY OF CHESAPEAKE.

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BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Right of Entry Agreement permitting the City of Chesapeake to go upon and utilize a City of Norfolk easement located in the right of way of Deepwater Drive in the City of Chesapeake for the purposes of posting no dumping signs, unlocking a gate, removing illegal fill, reestablishing and monitoring vegetation, and exercising public ingress and egress, a copy of which Agreement is attached hereto as Exhibit A, is hereby approved.

Section 2:- That the City Manager, and other proper officers of the City, are authorized to execute the Agreement on behalf of the City.

Section 3:- That the City Manager is further authorized to correct, amend or revise the Agreement as he may deem necessary in order to carry out the purposes as stated therein.

Section 4:- That this ordinance shall be in effect from and after the date of its adoption.



## **EXHIBIT A TO ORDINANCE**

**THIS RIGHT OF ENTRY AGREEMENT** ("Agreement"), made this \_\_\_\_ day of May, 2015, by and between the **CITY OF NORFOLK**, a municipal corporation of the Commonwealth of Virginia ("Norfolk") Grantor, and **CITY OF CHESAPEAKE**, a municipal corporation of the Commonwealth of Virginia ("Chesapeake"), Grantee, whose address is 306 Cedar Road, Chesapeake, Virginia 23322.

### **WITNESSETH:**

WHEREAS, Norfolk has an easement over the entirety of a fifty foot right-of-way known as Deepwater Drive located in the City of Chesapeake as shown on Exhibit A attached hereto, such easement having been granted to Norfolk for the purpose of travel, on foot or by vehicle, and for public utilities located either above or below the ground; and

WHEREAS, Chesapeake, reserving any property interests it may have in its own right, has requested that Norfolk grant Chesapeake a license for permissive use of the said easement retroactive to June 1, 2014, for purposes of posting no dumping signs, unlocking a gate, removing illegal fill, reestablishing and monitoring vegetation, and exercising public ingress and egress; and

WHEREAS, Norfolk is willing to grant Chesapeake a right-of-entry over the easement for the purposes stated above.

NOW, THEREFORE, Norfolk hereby grants to Chesapeake, and its contractors, subcontractors, consultants, sub-consultants or any other persons, corporations or legal entities retained by Chesapeake for the purposes set forth above, the right to enter upon Norfolk's easement upon the following terms and conditions:

1. The permission granted hereby shall be for the period of one (1) year commencing on the date of execution of this Right of Entry and terminating one year thereafter.

2. Norfolk shall have access to its easement at all times and Norfolk shall conduct any activities on, and with respect to, the easement in such manner as not to unduly conflict or interfere with use of the easement by Chesapeake.

3. Norfolk shall have the right to make periodic inspections of the manner in which Chesapeake is using the easement and Chesapeake shall exercise reasonable care in the performance of its work and other authorized activities.

4. Chesapeake shall coordinate its entry upon the easement with Norfolk's Director of Public Works and with Norfolk's Director of Utilities, as may be appropriate.

5. Any costs associated with violations of the law, including but not limited to, remediation, clean-up costs, fines, administrative or civil penalties or charges, and third-party claims imposed on Norfolk by any regulatory agency or by any third party as a result of the noncompliance with applicable federal, state or local environmental laws and regulations or nuisance statutes by Chesapeake, or by subcontractors, consultants, sub-consultants or any other persons, corporations or legal entities retained by Chesapeake in connection with the work or other activities contemplated herein, shall be paid by Chesapeake to the extent allowed by law.

6. Chesapeake is self-insured, and Chesapeake agrees to pay all sums which it shall be legally obligated to pay in connection with its use of the easement as contemplated herein. In addition, Chesapeake will require any contractor, subcontractor, consultant, sub-consultant or any other entity performing work on the easement to maintain worker's compensation insurance as may be required by statute, as well as commercial liability insurance and automobile liability insurance in a form and with limits Chesapeake considers appropriate.

7. Norfolk shall not be responsible or liable for any injuries to persons, including death or damage to property, when such injuries or damages are caused by or are results from Chesapeake's use of the easement under the terms of this Agreement that are not solely due to the negligence of Norfolk.

8. This Agreement shall not be assigned by Chesapeake to any other party or entity.

9. Upon completion of all work or other activities in the easement permitted by this Agreement, Chesapeake shall leave the easement in a condition reasonably acceptable to Norfolk's Director of Public Works or to Norfolk's Director of Utilities, as may be appropriate.

10. In exercising the rights granted hereby, and undertaking activity pursuant to this Agreement, Chesapeake shall act in accordance with the applicable laws of the Commonwealth of Virginia and any other governmental body, state or federal, having jurisdiction over such matters. All wetland restoration work will be reported to the Army Corps of Engineers as may be required.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officials as of the day and year first above written.

*(SIGNATURE PAGES TO FOLLOW)*



CITY OF NORFOLK

By: \_\_\_\_\_ [SEAL]  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

COMMONWEALTH OF VIRGINIA  
CITY OF NORFOLK, to-wit:

I, \_\_\_\_\_, a Notary Public in and for the City of Norfolk, in the Commonwealth of Virginia, whose term expires on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, do hereby certify that Marcus D. Jones, City Manager, and R. Breckenridge Daughtrey, City Clerk, respectively, of the City of Norfolk, whose names as such are signed to the foregoing Right of Entry Agreement dated \_\_\_\_\_, 2015, have acknowledged the same before me in my City and State aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

Registration No. \_\_\_\_\_

APPROVED AS TO CONTENTS:

\_\_\_\_\_  
Director of Utilities

APPROVED AS TO FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Deputy City Attorney

CITY OF CHESAPEAKE

By: \_\_\_\_\_ [SEAL]  
City Manager

ATTEST:

\_\_\_\_\_  
City Clerk

COMMONWEALTH OF VIRGINIA  
CITY OF CHESAPEAKE, to-wit:

I, \_\_\_\_\_, a Notary Public in and for the City of  
Chesapeake, in the Commonwealth of Virginia, whose term expires on the \_\_\_\_ day of  
\_\_\_\_\_, 20\_\_\_\_, do hereby certify that \_\_\_\_\_,  
and \_\_\_\_\_, City Clerk, respectively, of the City of Chesapeake, whose  
names as such are signed to the foregoing Right of Entry Agreement dated  
\_\_\_\_\_, 2015, have acknowledged the same before me in my City and State  
aforesaid.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Notary Public

Registration No. \_\_\_\_\_

APPROVED AS TO CONTENTS:

\_\_\_\_\_  
Director of Public Works

APPROVED AS TO FORM  
AND CORRECTNESS:

\_\_\_\_\_  
Deputy City Attorney



